

Good for homeland security: Hundreds of thousands of undocumented workers would be brought out of the shadows and given background checks. DHS could re-focus more resources on fighting more dangerous threats.

Good for American consumers: American families would be more certain of a safe, stable, food supply grown in America, and we would know who is growing our food.

Not a "magnet" for new illegal immigration: Only workers with a substantial, proven work history (at least 100 days) in agriculture in the USA before January 1, 2005, would be eligible to apply for the earned adjustment program.

Not "taking jobs away" from American workers: H-2A labor standards (including wages, housing, and transportation) ensure that American workers are not "underbid" for H-2A jobs. Whatever arguments some may make about other industries, most of the work in labor-intensive agriculture is seasonal and migrant in nature. Most American workers cannot and will not leave their families and homes behind, to move from farm to farm, living in temporary quarters, following temporary work.

Humane, good for workers: It is intolerable that, every year, hundreds of workers die packed in boxcars or truck trailers or crossing the desert. Many thousands are preyed upon by human smugglers. Stepped-up border enforcement has locked in as many as it has locked out, as returning home at the end of the work season becomes as treacherous and deadly as entering the country. Workers with legal status can assert legal rights against exploitation and safely leave the country when the work is done.

THE NEED FOR AGJOBS LEGISLATION—NOW

Americans need and expect a stable predictable, legal work force in American agriculture. Willing American workers deserve a system that puts them first in line for available jobs with fair, market wages. All workers deserve decent treatment and protection of basic rights under the law. Consumers deserve a safe, stable, domestic food supply. American citizens and taxpayers deserve secure borders, a safe homeland, and a government that works. Yet we are being threatened on all these fronts, because of a growing shortage of legal workers in agriculture.

To address these challenges, a bipartisan group of Members of Congress, including Senators Larry Craig (ID) and Ted Kennedy (MA) and Representative Chris Cannon (UT) and Howard Berman (CA), is introducing the Agricultural Job Opportunity, Benefits, and Security (AgJOBS) Act of 2005. This bipartisan effort builds upon years of discussion and suggestions among growers, farm worker advocates, Latino and immigration issue advocates, Members of both parties in both Houses of Congress, and others. In all substantive essentials, this bill is the same as S. 1645/H.R. 3142 in the 108th Congress.

THE PROBLEMS

Of the USA's 1.6 million agricultural work force, more than half is made up of workers not legally authorized to work here—according to a conservative estimate by the Department of Labor, based, astoundingly, on self-disclosure in worker surveys. Reasonable private sector estimates run to 75 percent or more.

With stepped up documentation enforcement by the Social Security Administration and the Bureau of Immigration and Customs Enforcement (the successor to the old INS), persons working here without legal documentation are not leaving the country, but just being scattered. The work force is being constantly and increasingly disrupted. Ag employers want a legal work force and must have a stable work force to survive—but fed-

eral law actually punishes "too much diligence" in checking worker documentation. Some growers already have gone out of business, lacking workers to work their crops at critical times.

Undocumented workers are among the most vulnerable persons in our country, and know they must live in hiding, not attract attention at work, and move furtively. They cannot claim the most basic legal rights and protections. They are vulnerable to predation and exploitation. Many have paid "coyotes"—labor smugglers—thousands of dollars to be transported into and around this country, often under inhumane and perilous conditions. Reports continue to mount of horrible deaths suffered by workers smuggled in enclosed truck trailers.

Meanwhile, the only program currently in place to respond to such needs, the H-2A legal guest worker program, is profoundly broken. The H-2A status quo is slow, bureaucratic, and inflexible. The program is complicated and legalistic. DOL's compliance manual alone is over 300 pages. The current H-2A process is so expensive and hard to use, it places only about 30,000-50,000 legal guest workers a year—2 percent to 3 percent of the total ag work force. A General Accounting Office study found DOL missing statutory deadlines for processing employer applications to participate in H-2A more than 40 percent of the time. Worker advocates have expressed concerns that enforcement is inadequate.

THE SOLUTION—AGJOBS REFORMS

AgJOBS legislation provides a two-step approach to a stable, legal, safe, ag work force: (1) Streamlining and expanding the H-2A legal, temporary, guest worker program, and making it more affordable and used more—the long-term solution, which will take time to implement; (2) Outside the H-2A program, a one-time adjustment to legal status for experienced farm workers already working here, who currently lack legal documentation—the bridge to allow American agriculture to adjust to a changing economy.

H-2A Reforms: Currently, when enough domestic farm workers are not available for upcoming work, growers are required to go through a lengthy, complicated, expensive, and uncertain process of demonstrating that fact to the satisfaction of the federal government. They are then allowed to arrange for the hiring of legal, temporary, non-immigrant guest workers. These guest workers are registered with the U.S. Government to work with specific employers and return to their home countries when the work is done. Needed reforms would:

Replace the current quagmire for qualifying employers and prospective workers with a streamlined "attestation" process like the one now used for H-1B high-tech workers, speeding up certification of H-2A employers and the hiring of legal guest workers.

Participating employers would continue to provide for the housing and transportation needs of H-2A workers. New adjustments to the Adverse Effect Wage Rate would be suspended during a 3-year period pending extensive study of its impact and alternatives. Other current H-2A labor protections for both H-2A and domestic workers would be continued. H-2A workers would have new rights to seek redress through mediation and federal court enforcement of specific rights. Growers would be protected from frivolous claims, exorbitant damages, and duplicative contract claims in state courts.

The only experience our country has had with a broadly-used farm guest worker program (used widely in the 1950s but repealed in the 1960s) demonstrated conclusive, and instructive, results. While it was criticized

on other grounds, it dramatically reduced illegal immigration while meeting labor market needs.

Adjustment of workers to legal status

To provide a "bridge" to stabilize the ag work force while H-2A reforms are being implemented, AgJOBS would create a new earned adjustment program, in which farm workers already here, but working without legal authorization, could earn adjustment to legal status. To qualify, an incumbent worker must have worked in the United States in agriculture, before January 1, 2005, for at least 100 days in a 12-month period over the last 18 months prior to the bill's introduction. (The average migrant farm worker works 120 days a year.)

This would not spur new immigration, because adjustment would be limited to incumbent, trusted farm workers with a significant work history in U.S. agriculture. The adjusting worker would have non-immigrant, but legal, status. Adjustment would not be complete until a worker completes a substantial work requirement in agriculture (at least 360 days over the next 3-6 years, including 240 days in the first 3 years).

Approximately 500,000 workers would be eligible to apply (based on current workforce estimates). Their spouses and minor children would be given limited rights to stay in the U.S., protected from deportation. The worker would have to verify compliance with the law and continue to report his or her work history to the government. Upon completion of adjustment, the worker would be eligible for legal permanent resident status. Considering the time elapsed from when a worker first applies to enter the adjustment process, this gives adjusting workers no advantage over regular immigrants beginning the legal immigration process at the same time.

AgJOBS would not create an amnesty program. Neither would it require anything unduly onerous of workers. Eligible workers who are already in the United States could continue to work in agriculture, but now could do so legally, and prospectively earn adjustment to legal status. Adjusting workers may also work in another industry, as long as the agriculture work requirement is satisfied.

AGJOBS IS A WIN-WIN-WIN APPROACH

Workers would be better off than under the status quo. Legal guest workers in the H-2A program need the assurance that government red tape won't eliminate their jobs. For workers not now in the H-2A program, every farmworker who gains legal status finally will be able to assert legal protection—which leads to higher wages, better working conditions, and safer travel. Growers and workers would get a stable, legal work force. Consumers would get better assurance of a safe, stable, American-grown, food supply—not an increased dependence on imported food. Law-abiding Americans want to make sure the legal right to stay in our country is earned, and that illegal behavior is not rewarded now or encouraged in the future. Border and homeland security would be improved by bringing workers out of the underground economy and registering them with the AgJOBS adjustment program. Overall, AgJOBS takes a balanced approach, and would work to benefit everyone.

FREQUENTLY ASKED QUESTIONS ON AGJOBS AND EARNED ADJUSTMENT

Q. Amnesty doesn't work. Why try it again?

A. Amnesty doesn't work. That's why I never have supported it. The country has tried amnesty in the past and it's failed. Our current immigration law is flawed and enforcement has been a miserable failure. The government has pretended to control the borders while the country has looked the